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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,447

08/04/2006

Udo Siedlaczek

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06/13/2008

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP  
111 MONUMENT CIRCLE, SUITE 3700  
INDIANAPOLIS, IN 46204-5137

EXAMINER

BERRY, WILLIE WENDELL JR

ART UNIT

PAPER NUMBER

3643

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,447	<b>Applicant(s)</b> SIEDLACZEK, UDO	
	<b>Examiner</b> WILLIE W. BERRY	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) 8, 9 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

The disclosure is objected to because of the following informalities:

Claim 14 does not have a period at the end of the sentence.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent no. 2,826,003 to Oki et al. in view of patent no. 5,713,403 to Clusserath et al. and patent no. 6,905,399 to Lischka.

Regarding claim 1, Oki discloses a potting machine for potting flowerpots, with a conveying device (12) comprising a plurality of pot retainers (14) for a respective flowerpot, with a housing ring (1) surrounding the conveying device (12).

Oki does not disclose a labeling device for labeling the flowerpots, the labeling device comprising a dispensing tongue constructed and arranged for stripping off labels and applying them to the flowerpots, a positioning device comprising a joint and having a positioning arm constructed and arranged for pivoting the labeling device and positioning the dispensing tongue against the flowerpots being connected to the labeling device.

Clusserath et al. discloses that it is known to have a labeling device (8) in a filling machine and labeling device comprising a dispensing tongue (26') constructed and arranged for stripping off labels and applying them to the flowerpots (Clusserath et al. discloses the structure of the labeling device and therefore being capable of performing the function of the device as claimed by applicant).

Lischka discloses that it is known to have a positioning device (116) in a conditioning mechanism for chemical mechanical polishing comprising a joint (not numbered, but shown in fig. 1 being at the base of element 116) and having a positioning arm (not numbered, but shown in fig. 1) constructed and arranged for pivoting the labeling device and positioning the dispensing tongue against the flowerpots being connected to the labeling device (Lischka discloses the structure of the positioning device and therefore being capable of performing the function of the device as claimed by applicant).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Oki with the teachings of Clusserath et al. and Lischka for the purpose of adding information to the containers and transferring an item

from one position to the next respectively as stated by Clusserath et al. in the ABSTRACT and Lischka in col. 2, lines 63-67.

Regarding claims 2-4, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. do not disclose a mounting means at the end of the positioning arm.

Lischka further discloses a mounting means (not numbered, but shown in fig. 1) at the end of the positioning arm.

Regarding claim 5, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. and Lischka do not disclose the positioning arm firmly connected via a mounting means to said housing ring or to a discharge device assigned to said potting machine.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Oki in view of Clusserath et al. and Lischka to have the positioning arm firmly connected via a mounting means to said housing ring, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 6, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 2.

Oki in view of Clusserath et al. do not disclose a joint provided between the mounting means and positioning arm.

Lischka further discloses a joint provided between the mounting means and positioning arm (not numbered, but shown in fig. 1).

Regarding claim 7, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. do not disclose the positioning device comprises at least one further positioning arm and in that said positioning arm and said further positioning arm are connected to one another via a further joint.

Lischka further discloses a positioning device comprises at least one further positioning arm and in that said positioning arm and said further positioning arm are connected to one another via a further joint (not numbered, but shown in fig. 1 as being the joint between the two linkages of element 116).

Regarding claim 10, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 7.

Oki in view of Clusserath et al. and Lischka do not disclose the labeling device connected to said positioning arm or to said further positioning arm.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Oki in view of Clusserath et al. and Lischka to have the labeling device connected to said positioning arm, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claims 11 and 12, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claims 1 and 2.

Oki in view of Clusserath et al. and Lischka do not disclose the labeling 20 device being height-adjustable, particularly via said positioning device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Oki in view of Clusserath et al. and Lischka to include the labeling 20 device being height-adjustable, particularly via said positioning device, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

Regarding claim 13, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. do not disclose the positioning arm designed as an angle with a horizontal leg and a vertical leg.

Lischka further discloses a positioning arm designed as an angle with a horizontal leg and a vertical leg (not numbered, but shown in fig. 1).

Regarding claim 15, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. do not disclose that said first joint and/or a plurality of further joints designed in such a way that a movement is possible about at least two axes.

Lischka further discloses that said first joint and/or a plurality of further joints designed in such a way that a movement is possible about at least two axes (not numbered, but shown in fig. 1; note both joints being located at the base of element 116 and between the two linkages of element 116).

Regarding claim 16, Oki in view of Clusserath et al. and Lischka disclose as discussed above in claim 1.

Oki in view of Clusserath et al. do not disclose the joint and/or a plurality of further joints assigned a locking means for locking in any pivoting position.

Lischka further discloses the joint and/or a plurality of further joints assigned a locking means for locking in any pivoting position (col. 2, lines 63-67; note the locking means is considered to be inherent in order for the device of Lischka to perform as described in the aforementioned section of col. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Lischka's generic locking means with a screw lever locking means, since the examiner recognizes the equivalence of a generic locking means and a screw lever locking means for their use in the art and the selection of any of these known equivalents would be within the level of ordinary skill in the art.

### ***Allowable Subject Matter***

Claims 8, 9 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE W. BERRY whose telephone number is (571)272-8974. The examiner can normally be reached on 9:00am to 5:30pm Mon. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wbj.

/Peter M. Poon/  
Supervisory Patent Examiner, Art Unit 3643